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## **Outline of Testimony before the Board of Zoning Adjustment**

### **BZA Application No. 19020 11<sup>th</sup> and K Streets, N.W.**

**Steven E. Sher**  
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**June 23, 2015**

#### **I. Site location and description**

##### **A. Location**

1. Northeast corner of the intersection of 11<sup>th</sup> and K Streets, N.W.
2. Project site consists of Lots 4, 5, 53 and 809 and portion of a public alley to be closed in Square 342
3. Site located in Downtown

##### **B. Size**

1. "L" shaped property
2. Frontage on two streets:
  - a. 11th Street (111.42 feet wide) – 30.92 feet
  - b. K Street (147.67 feet wide) – 124.75 feet
3. Frontage on 12 foot wide east-west alley at the rear
4. Land area of approximately 7,311 square feet
5. Bounded by private property on the east and northwest sides

##### **C. Existing site condition:**

1. 4 story late 19<sup>th</sup> century vacant brick buildings at the corner
2. Surface parking area on the east side of the lot

II. Description of surrounding area

A. Remainder of Square 342 (see aerial photograph, attached)

1. 8 story Hosteling International hostel at 1009 11<sup>th</sup> Street (immediately adjacent to the north)
2. 13 story apartment house with ground floor retail at 1010 Massachusetts Avenue (corner of 11<sup>th</sup> Street across the alley to the north)
3. 7 story Cato Institute office building at 1000 Massachusetts Avenue (corner of 10<sup>th</sup> Street across the alley to the north)
4. 8 story office building with ground floor retail (Carpenters Building – historic landmark) at 1001 K Street (corner of 10<sup>th</sup> Street)
5. 2 story townhouse type office building at 1007 K Street (immediately to the east)

B. General area

1. High rise office buildings, hotels and apartment houses
2. Churches
3. Mount Vernon Square 2 blocks to the east
4. Franklin Square 2 blocks to the west
5. Convention Center to the east

III. Existing zoning – DD/C-3-C

A. C-3-C

1. Uses (§§741 – 744)
  - a. Commercial use permitted as a matter-of-right, including retail, service and office use
  - b. Hotel and inn
  - c. Residential use permitted as a carry-over from the Special Purpose and Residential Districts
2. Height - maximum of ninety feet (§770.1)
3. Density - maximum of 6.5 FAR (§771.2)

4. Rear yard:
  - a. Minimum of 2½ inches per foot of height, not less than twelve feet (§774.1)
  - b. May be measured from centerline of alley at the rear and need not be provided below a plane 20 feet above the mean finished grade at the middle of the rear of the building
5. Side yard - not required (§775.5)
6. Parking (§2101.1) for hotel use, minimum of 1 space for each 4 rooms usable for sleeping
7. Loading (§2201.1) for hotel with more than 200 rooms: 1 loading berth @ 30 feet deep, 1 loading berth @ 55 feet deep and one service/delivery loading space

B. Downtown Development (DD) Overlay District

1. Applies to new buildings and alterations or additions to existing buildings involving more than 100 percent of assessed value of building in any twelve month period (§1700.5)
2. Height is maximum permitted under the Act of 1910 (130 feet for subject site) (§1701.7)
3. Housing Priority Area B
  - a. No maximum FAR for residential uses (§1706.7(b))
  - b. Minimum of 3.5 FAR required to be devoted to residential use (6.0 FAR available for commercial) (§1706.5)

IV. Proposed development

- A. Use: hotel with 200 rooms including restaurant
- B. Gross floor area of approximately 69,330 square feet (approximately 9.48 FAR)
- C. Height: 130 feet
- D. Parking: no spaces provided

V. Relief required:

A. Variances

1. From the parking requirements for the number of spaces (§2101.1):
  - a. Minimum required: 64 spaces

- b. Proposed: 0 spaces
  - c. Variance: 64 spaces
2. From the loading requirements (§2201.1)
- a. Required: 1 berth @ 30 feet, 1 platform @ 100 square feet and 1 service/delivery loading space
  - b. Proposed: 1 berth @ 30 feet and 1 platform @ 100 square feet
  - c. Variance: 1 service/delivery loading space
3. From the closed court width requirements (§776)
- a. Minimum required: 3 inches per foot of height of court but not less than 12 feet
    - (1) 12 feet for court #1 on the west side of the building at the third floor level based on a height of court of 30 feet, 5.5 inches
    - (2) 27.13 feet for court #2 on the east side of the building at the third floor level based on a height of court of 108 feet, 5.5 inches
  - b. Proposed:
    - (1) 6 feet for court #1
    - (2) 6 feet for court #2
  - c. Variances:
    - (1) 6 feet for court #1
    - (2) 21.13 feet for court #2
4. From the closed court area requirements (§776)
- a. Minimum required: twice the square of the width of court based on the height of court but not less than 250 square feet
    - (1) 250 square feet for court #1
    - (2) 1,472 square feet for court #2
  - b. Proposed:
    - (1) 72 square feet for court #1

(2) 388.5 square feet for court #2

c. Variances:

(1) 178 square feet for court #1

(2) 1083.5 square feet for court #2

B. Special exception for waiver of the rear yard (§774.2)

1. Minimum rear yard required: 26.2 feet (measured from the centerline of the alley at the rear)
2. Proposed: 6 feet (measured from the centerline of the alley at the rear)
3. Relief required: 20.2 feet

VI. Standards for a variance (§3103.2)

- A. Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,
- B. the strict application of any regulation adopted under D.C. Code §§5-413 to 4-432 (1981) would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship;
- C. Provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

VII. Compliance with the variance standards

A. Exceptional situation:

1. Small size of the lot (area of only 7,311 square feet) for the use proposed
2. Small width of the lot (only 50 feet for the portion of the lot on which the new construction will occur)
3. “L” shaped property with significant street frontage but narrow width where development can occur
4. Existing buildings on the southwest corner of the site to be retained and incorporated into the proposed development

B. Practical difficulty:

1. Size of site precludes underground parking
2. Combined width of ramp, aisle and size of spaces takes up the entire width of the lot without room to ramp down to underground parking
3. Internal building functions (stairs, elevator core and trash room) and ground floor retail reduce space available at the ground level for service/ delivery loading space
4. Hotel rooms require windows; complying courts on both sides would not leave sufficient floor plate for corridors and rooms

C. No substantial detriment:

1. High transit accessibility (within walking distance of 4 Metrorail stations), as well as bike parking and access to car sharing spaces (Walk Score of 95), will lead to low demand for parking per reports from DDOT and analysis prepared by Gorove|Slade
2. Is significant parking capacity at nearby off-street garages
3. Applicant has committed to operational measures to preclude negative impacts that might result from absence of parking and loading (see conditions in OP report)

VIII. Standards for the rear yard special exception

- A. Apartment and office windows shall be separated from other buildings that contain facing windows a distance sufficient to provide light and air and to protect the privacy of building occupants
- B. In determining distances between windows in buildings facing each other, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be sufficient to provide adequate light and privacy to the rooms
- C. Building plan shall include provisions for adequate off-street service functions
- D. Review by the Office of Planning and other relevant District departments and agencies

IX. Compliance with the rear yard special exception standards

- A. Are only 2 banks of windows in the rear wall of the hotel
- B. One of the buildings across the alley is an apartment house, the other an office building
- C. The facing buildings to the north are across a 12 foot alley, are setback by an additional 8 feet of a public access easement and the apartment house is further setback from its southern lot line
- D. The total separation is on the order of 30 feet

- E. Part of the property across the alley to the north is another public alley which runs north-south connecting to Massachusetts Avenue
- F. Service and loading functions
  - 1. No off street loading or parking is being provided
  - 2. Presence or absence of rear yard makes no material difference to whether parking and loading can be provided on-site
- G. Agency review: Office of Planning report, dated June 16, 2015, filed in the record

X. Conclusions

- A. Size, width, shape and presence of existing buildings form exceptional conditions of the property precluding underground parking
- B. Practical difficulty results from inability to provide underground parking
- C. Ground floor configuration makes parking and loading difficult and undesirable
- D. There are sufficient alternatives for access to the site using modes other than automobile travel and there is sufficient off-street parking available in the neighborhood for those who might choose to drive
- E. Providing complying court widths would leave insufficient room for hotel floor plates
- F. Granting less than the full rear yard would not be detrimental to the subject building or any adjoining buildings
- G. The application should be granted

